

## OIL & GAS LEASE STIPULATION CORRECTION

State of Montana Oil & Gas Lease Number OG-38183-07

Township 26 North, Range, Range 7 West

Section 11: SW4NW4, NW4SE4, N2SW4

160 acres, more or less

Teton County

Common Schools Grant

The above-referenced state oil & gas lease is located approximately 7 miles northwest of Bynum. The state's ownership does not include the surface estate. As part of our pre-lease review for the December 2007 sale, the department received comment from the Department of Fish, Wildlife and Parks regarding the parcel's location. It lies along Blackleaf Creek and is located 5 miles east of the Blackleaf Wildlife Management area. The tract is within east slope grizzly bear and sharp-tailed grouse habitat. The lease was issued with the Rocky Mountain Front stipulation.

Upon receiving an application to drill a well, department staff discovered the tract lies within the Second Guess oil field, an existing field with two producing wells. The Second Guess field lies six miles south of the Gypsy Basin/Bill's Coulee oil fields, and ten miles west of the Pondera field. Our lessee has proposed up to five new wells in the field, one of which would be located on the referenced state oil & gas lease. An existing tank battery is located 0.75 miles northeast of the proposed state well. One well located 3 miles north of the proposed state well has been drilled and cased.

The department typically would not recommend the Rocky Mountain Front stipulation for a tract located within traditional Toole/Teton county oil & gas fields. The RMF stipulation requires preparation of a full-scale EIS. Given its location in a long-existing oil field, review of the disturbance from the proposed state well does not approach the level of review anticipated by the RMF stipulation.

The department therefore requests Land Board approval to replace the Rocky Mountain Front stipulation with the Sensitive Area stipulation. The Sensitive Area stipulation would allow the department to review the proposed location with input from the Department of Fish, Wildlife and Parks, but would not trigger an EIS unless initial MEPA review indicated need for further review via an EIS.

Montana Fish, Wildlife & Parks Lease Sale Comments  
October 26, 2007 Page 3

Lease Applications 5078, 5079, 5080, 5081, 5082, 5084, 5100, 5101, 5105, 5107, and 5138 are found in the Bull Mountains and are considered year-around range for both elk and mule deer. Based on survey data from the winter of 2004-05, these leases should be protected with a seasonal no surface occupancy stipulation from December 1 through March 31. ***Covered by review of site specific activity proposals.***

Lease Applications 5149, 5150, 5151, 5152, 5153, 5159, 5160, 5161 5089, 5090, 5118, 5119, 5120, 5121, 5122, 5123, 5124, 5125, 5054, 5055, 5088, 5010, 5036, 5037, 5038, and 5039 occur within crucial deer or antelope winter range a December 1 to March 31st no Surface Occupancy stipulation should be applied. ***Covered by review of site specific activity proposals.***

Montana Fish, Wildlife and Parks has specific concerns about Lease Application 5022 in Teton County. This parcel lies along Blackleaf Creek 5 miles east of the Blackleaf Wildlife Management Area. That area is an important movement/cover area for grizzly bears and is year-around habitat for sharptailed grouse. There is a lek within 1/2 mile of the parcel. Montana Fish, wildlife and parks believes that because of the diverse species richness including Grizzly bears, this parcel should be deferred from leasing or if leased No Surface Occupancy is warranted. ***The Rocky Mountain Front sensitive areas stipulation will be utilized on this tract's lease.***

Lease Application 5001 is located on an island in the Yellowstone River and Lease Application 5038 is located adjacent to the ***Little*** Powder River. As such, a NSO Stipulation should be applied for ¼ of a mile on either side of these rivers. ***The navigable waterway and related acreage NSO stipulation will be used on the lease of application number 5001. The floodplain/wetland stipulation will be applied to the lease of application # 5038.***

Lease Application 5012 is sharp-tail grouse habitat and a sharp-tail lek is present in the section at T22N R58E Sec 34 NW ¼. FWP recommends no surface activity during the spring nesting and brood-rearing seasons (April 1 – July 15). ***Covered by review of site specific activity proposals.***

Lease Applications 5054, 5055, 5056, 5057, and 5058 have documentation indicating bald eagle nests/ and or sightings have occurred on these parcels. If a nest site is present, stipulation 17 should be added. ***Covered by review of site specific activity proposals.***

Lease Application 5144 has records indicating Peregrine falcon nests/ and or sightings have occurred on this parcel. If a nest site is present, stipulation 17 should be added. ***Covered by review of site specific activity proposals.***

Lease Applications 5015 – 5018 are located in native range with shrubby coulee habitat. Sharp-tailed grouse habitat and leks may be present. Mule deer winter range. There is also a small amount of crop and CRP. FWP recommends that: Surface use is prohibited from December 1 to March 31 to protect crucial winter range for wildlife. No surface activity during the spring nesting and brood-rearing seasons (April 1 – July 15). ***Covered by review of site specific activity proposals.***

## **SENSITIVE AREAS STIPULATION**

This lease includes areas that may be environmentally sensitive. Therefore, if the lessee intends to conduct any activities on the lease premises, the lessee shall submit to TLMD one copy of an Operating Plan or Amendment to an existing Operating Plan, describing in detail the proposed activities. No activities shall occur on the tract until the Operating Plan or Amendments have been approved in writing by the Director of the Department. TLMD shall review the Operating Plan or Amendment and notify the lessee if the Plan or Amendment is approved or disapproved.

After an opportunity for an informal hearing with the lessee, surface activity may be denied or restricted on all or portions of any tract if the Director determines in writing that the proposed surface activity will be detrimental to trust resources and therefore not in the best interests of the trust.

## **ROCKY MOUNTAIN FRONT STIPULATION**

This lease is located near the Rocky Mountain Front and includes areas that are environmentally sensitive. Therefore, except as otherwise provided below, the lessee shall not conduct any surface operations on the lease premises. If the lessee determines that surface operation on the lease premises may be required, the lessee shall submit a proposed Operating Plan or Amendment to an existing Operating Plan to the State Board of Land Commissioners describing in detail the proposed operations. No surface activities shall occur on the lease premises unless and until the Operating Plan or Amendment is approved by the Board. In determining whether to approve the proposed Operating Plan or Amendment, the following provisions shall apply:

- 1) If the lessee proposes an activity that does not entail any significant surface disturbance, the Board may approve the same after completion of the appropriate environmental review in accordance with the Montana Environmental Policy Act (MEPA) and an opportunity for public comment on the proposed activity has been provided.
- 2) Before the Board approves any proposed activity on the lease premises that entails a significant surface disturbance, an environmental impact statement (EIS) shall be completed in accordance with MEPA. The EIS shall analyze the potential impacts of alternative and future potential levels of oil and gas development and extraction on an ecosystem scale as the ecosystem is defined by the "Limits of Acceptable Change - Bob Marshall Wilderness Complex" adopted by the Montana Department of Fish, Wildlife and Parks in December 1991. The analysis shall consider all relevant information, which may include, but is not limited to, existing environmental reviews and management plans. Public involvement in the environmental review process shall be actively solicited by the preparer of the environmental review document and shall include, at minimum, adequately noticed public meetings in at least three communities including Great Falls and Helena.
- 3) The proposed surface activity shall adhere to the "Interagency Rocky Mountain Front, Wildlife Monitoring/Evaluation Program, Management Guidelines for Selected Species" adopted by the Montana Department of Fish, Wildlife and Parks in September 1987, or any successor guidelines thereto.
- 4) The Board may refuse to approve any proposed surface operations if it determines that they do not constitute the best use of trust resources or are not in the best interest of the State of Montana.















